

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

AARON KIMBER,

Plaintiff,

v.

JOHN MURPHY, et al.,

Defendants.

Case No. 1:16-cv-365

HONORABLE PAUL L. MALONEY

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ORDER

This is a prisoner civil rights action filed pursuant to 42 U.S.C. § 1983. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation on December 5, 2018, recommending that this Court (1) deny Plaintiff's motion for entry of a default judgment against defendant Allen (ECF No. 50), and dismiss all claims against Defendant Allen for failure to state a claims upon which relief can be granted; (2) dismiss Defendant Murphy's motion for summary judgment (ECF No. 54) without prejudice; (3) grant Plaintiff's motion to voluntarily dismiss all his claims against Defendant Murphy (ECF No. 57), and (4) enter judgment dismissing Plaintiff's claims against Defendant Murphy with prejudice. The Report and Recommendation was duly served on the parties. No objections have been filed. *See* 28 U.S.C. § 636(b)(1). Therefore,

IT IS HEREBY ORDERED that the Report and Recommendation (ECF No. 59) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that Plaintiff's motion for entry of a default judgment against Defendant Allen (ECF No. 50) is DENIED. All claims against Defendant Allen are DISMISSED for the reasons stated in the Report and Recommendation.

IT IS FURTHER ORDERED that Defendant Murphy's motion for summary judgment (ECF No. 54) is DISMISSED without prejudice.

IT IS FURTHER ORDERED that Plaintiff's motion to voluntarily dismiss all his claims against Defendant Murphy (ECF No. 57) is GRANTED. All claims against Defendant Murphy are DISMISSED with prejudice.

IT IS FURTHER ORDERED that this Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this decision would not be taken in good faith. See *McGore v. Wrigglesworth*, 114 F.3d 601, 610-11 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 211-12 (2007).

A Judgment will be entered consistent with this Order.

Dated: January 7, 2019

/s/ Paul L. Maloney
Paul L. Maloney
United States District Judge